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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

11)	Case No. CV 14-271 CAS
12	UNITED STATES OF AMERICA)	CR 08-57(B) CAS
13)	
14	Plaintiff/Respondent,)	ORDER GRANTING
15	vs.)	GOVERNMENT’S MOTION TO
16	CARL STEPHEN TISTHAMMER)	STAY BRIEFING AND
17	Defendant/Petitioner.)	RESOLUTION OF DEFENDANT’S
)	MOTION TO VACATE, SET ASIDE,
)	OR CORRECT SENTENCE (Dkt. #1,
)	filed January 13, 2014)

On March 19, 2010, defendant Carl Stephen Tisthammer was convicted of violations of 18 U.S.C. §§ 2251(b), 2252(a)(2)(A), and 2252(a)(5)(B). CR 08-57 dkt. #331. Defendant was sentenced on September 2, 2010. CR 08-57 dkt. #385. Defendant’s conviction and sentence were affirmed by the Ninth Circuit on June 20, 2012. CR 08-57 dkt. #474. Defendant currently has an appeal pending before the Ninth Circuit, see 9th Cir. dkt. #13-50260, of this Court’s order, issued on April 24, 2013, CR 08-57 dkt. #477. This order denied defendant’s motion for an order directing prison staff to provide him with daily law library access for the purpose of preparing his motion pursuant to 28 U.S.C. § 2255. On January 13, 2014, defendant filed a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. CV 14-271 dkt. #1. On

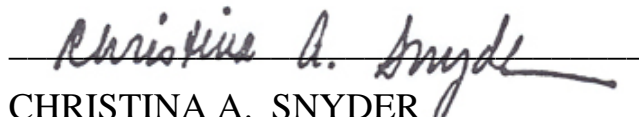
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June 5, 2014, the government filed a motion to stay the briefing and resolution of that motion until defendant’s pending appeal before the Ninth Circuit is resolved. Defendant has not filed an opposition.

“[A] district court should not entertain a habeas corpus petition while there is an appeal pending” before the Ninth Circuit. United States v. Deeb, 944 F.2d 545, 548 (9th Cir. 1991) (quoting Feldman v. Henman, 815 F.2d 1318 (9th Cir. 1987)). This rule serves the interest of judicial economy. See Black v. United States, 269 F.2d 38, 41 (9th Cir. 1959). While defendant’s appeal of his conviction and sentence has been resolved, the outcome of defendant’s appeal of this Court’s order regarding law library access will bear directly on the conditions under which defendant is permitted to prepare his motion under 28 U.S.C. § 2255. Accordingly, the government’s motion to stay the briefing and resolution of defendant’s motion pursuant to 28 U.S.C. § 2255 is hereby GRANTED. The government is directed to advise the Court in writing within 14 days of the resolution of defendant’s appeal. It is further ordered that this action, 2:14-cv-00271-CAS, be removed from this Court’s list of active civil cases.

IT IS SO ORDERED.

Dated: June 18, 2014


CHRISTINA A. SNYDER
United States District Judge